

APR 28 2014

IN UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES N. HALLEN, Clerk
BY *JWH* Deputy Clerk

PILAR ASTON Propria persona
Plaintiff,

v.

**THE CORPORATION OF
MERCER UNIVERSITY**
Defendants.

**Civil Action No:1:13-
cv-3172-RWS-JSA**

JURY DEMANDED

**PLAINTIFFS' MOTION FOR LEAVE TO FILE CORRECTED SECOND
AMENDED COMPLAINT, JOINING ADDITIONAL DEFENDANT AND
ADDING TWO ADDITIONAL COUNTS TO THE COMPLAINT**

Plaintiff, Pilar Aston Propria persona, hereby moves this court for leave to file this Corrected Second Amended Complaint submitted, for the sole purpose of correcting exhibit A, Second Amended complaint filed on April 10th, 2014, adding addition Defendant Equifax, Inc. and to add two additional counts, negligence and violation of Fair Debt Collection Act against the Corporation of Mercer University. A copy of the proposed Corrected Amended Complaint is attached as Attachment A.

ARGUMENT

Under Rule 15 of Federal Rules of Civil Procedure, "[a]" party may amend the party's pleading only by leave of the court or by written consent of the adverse party; and leave shall be freely given when justice so requires."

1. Evidence uncovered through discovery necessitates amendment of the complaint.

This proposed amendments to Plaintiff's complaint to correct the previously file flawed Second amended complaint, to add a party and to add two new claims are necessary and in the interest of justice as shown by the following discovered evidence through discovery.

*a. **Corrected Complaint***

The Plaintiff Second Amended filed on April 10th, 2014, Complaint is flawed and imprecise. The Plaintiff request to elucidate facts in the complaint in the interest of justice.

*b. **Additional Claims***

Since the inception of this lawsuit and the Defendants amended answer, the Defendants First Request for Admissions, the Plaintiff has learned through

archived emails that Plaintiff stored email that corresponded with the facts in this complaint.

1. Negligence

Plaintiff discovered emails that support claims that the Defendants were willfully neglectful with the Plaintiff Direct/Independent study classes, misrepresented the Plaintiff status of enrollment.

A. Emails that validate Plaintiff's claims that she was provided Direct/Independent studies.

Emails that provides exact date of events, meeting and correspondence between the Plaintiff and the Defendants staff.

2. Violation of Fair Debt Collection Act

Plaintiff since discovery of stored emails has learned that in the Defendants attempt to collect a debt that had not become due that the Defendants additional violated the FDCA.

a. Emails and mailed correspondence from the Defendants in an attempt to collect a debt from the Plaintiff.

b. Emails that show the dates classes were conducted to support the Plaintiff claims that she had not departed Mercer at the time the Defendants were attempting to collect on the Porter Loan.

3. Additional Parties

Equifax, Inc. is a consumer credit reporting agency in the United States, considered one of the three largest American credit agencies. If a consumer believes that any information contained in there Equifax credit file is incomplete or inaccurate, they may file a dispute by notifying Equifax directly and Equifax is supposed to promptly investigate the matter with the source of the information. When a consumer files a dispute the dispute request may take up to 45 days if the dispute is based upon a consumer's free annual credit file.

Equifax upon investigation with the source Equifax notifies the consumer of the results of the disputed investigation. After the results of the investigation completes, Equifax will either update the current status of the disputed information or let the consumer know if the finisher of the information verified it was reporting correctly or if the dispute will be deleted from the consumers file.

Under the Fair Credit Reporting Act, FCRA, both the credit reporting company and the information provider (that is, the person, company, or organization that provides information about a consumer to a credit reporting company) are responsible for correcting inaccurate or incomplete information in your report.

1. Plaintiff's amendment present no undue delay

In case, amendment presents no undue delay, prejudice, or bad faith.

Plaintiff is filing this motion and Corrected Second Verified Amended Complaint within the period set by the Court for amendments to pleadings.

2. Plaintiffs' amendment in involves no prejudice, dilatory motive, or bad faith.

Plaintiffs' amendment also involves neither prejudice, dilatory motive nor bad faith. Plaintiff has demonstrated good faith by claims only once she has discovered ample evidence to support her facts.

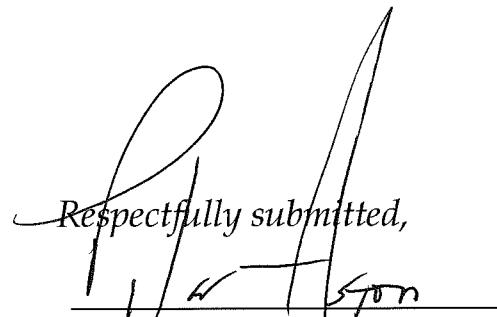
3. Amendment is not futile

Finally, leave to amend should be granted because Plaintiffs' proposed amendment is not futile. Plaintiff has added new claims as appropriate to conform to evidence and facts uncovered during discovery and added

additional facts to the Amendment Complaint. As a result, Plaintiff Corrected Second Amended Complaint states proper claims for relief and is and is sufficient to withstand a motion to dismiss. Amendment is, therefore, not futile.

CONCLUSION

Given the policy of the Federal Rules strongly favoring leave to amend, and since Plaintiffs' proposed amendment to her complaint is necessary in the interest of justice, will not cause undue delay or prejudice, is properly motivated, and is not futile, Plaintiffs' Motion for Leave to Amend should be granted.


Respectfully submitted,


Pilar Aston Pro Se
POB 19186
ATLANTA, GEORGIA 31126
(678)906-6662

CERTIFICATION OF COMPLIANCE WITH L.R. 5.1B

I hereby certify that the foregoing has been computer processed with 14 point Book Antiqua Font in compliance with the United States District Court for the Northern District of Georgia Local Rule 5.1B.

IN UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

<p><i>PILAR ASTON Propria persona</i> <i>Plaintiff,</i> <i>v.</i> THE CORPORATION OF MERCER UNIVERSITY <i>Defendants.</i></p>	<p><i>Civil Action No:1:13-</i> <i>cv-3172-RWS-JSA</i> JURY DEMANDED</p>
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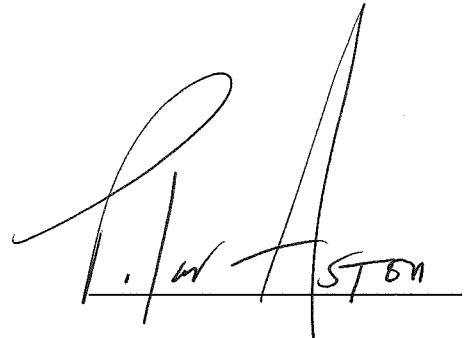
CERTIFICATE OF SERVICE

*This will certify that I have this day caused to be served a Copy of the within and foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE CORRECTED SECOND AMENDED COMPLAINT, JOINING ADDITIONAL DEFENDANT AND ADDING TWO ADDITIONAL COUNTS TO THE COMPLAINT** upon the following parties by placing the same in the United States Mail, postage prepaid, addressed to:*

*Jeffery Monroe
Jones, Cork & Miller, LLP
POB 6437
Macon, Georgia 31208*

This 26th day of April, 2014.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "Pilar Aston". The signature is fluid and cursive, with "Pilar" on the left and "Aston" on the right, connected by a vertical line.

Pilar Aston Pro Se
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ATLANTA, GEORGIA 31126
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